

## SENATOR BURNEY

Offered the following resolution.

Resolved, That the rules be so amended as to require all committee reports, simple and concurrent resolutions, amendments, substitutes and all other matter that is intended or required to be printed in the Journal, to be written on but one side of the paper.

Lost.

A message was received from the House announcing the passage of the following bills:

Senate bill No 12, "An act to amend article 617, chapter 2, Code of Criminal Procedure," and

Senale bill No. 31, "An act to amend article 1636 of the Revised Civil Statutes of Texas," with House amendments, and

Senate bill No. 45, "An act to amend article 3602, chapter 10, title 71 of the Revised Civil Statutes of the State of Texas, relative to the hiring of county convicts," with House amendment and that

The House has adopted the report of the joint committee of the two houses on the joint rules of the two houses.

WILL LAMBERT,  
Chief Clerk House of Representatives.

BY SENATOR GLASSCOCK,

By leave:

Memorial of H C Sweet, of Greer county, to the Governor and the Legislature and petitions of thirty-nine Confederate cripples and about nine hundred of their neighbors for recognition of Confederate and Veteran surveys in Greer county.

Referred to Committee on Public Lands.

On motion of Senator Harrison,

The Senate adjourned till 10 o'clock to-morrow morning.

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TWENTY-NINTH DAY.

SENATE CHAMBER. }

AUSTIN, February 12, 1887. }

The Senate met pursuant to adjournment.

Lieutenant Governor Wheeler in the chair.

Roll called.

Quorum present.

Prayer by the Chaplain Dr. Smoot.

On motion of Senator Houston,

The reading of the Journals of yesterday was dispensed with.

On motion of Senator Lane,

Senator Knittle was excused until Monday on important business.

BILLS AND RESOLUTIONS.

BY SENATOR UPSHAW:

A bill to be entitled "An act to amend Articles 1299 and 1300, of chapter 11, title 29, and Articles 1316, 1318 and 1319, chapter 12, title 29, and Articles 1358, 1360, 1362 and 1363, of chapter 16, title 29, and Articles 1368 and 1370, chapter 18, title 29, and Articles 1411 and 1412, chapter 19, title 29, of the Revised Civil Statutes of the State of Texas, regulating the practice of law in the district and county courts."

The bill provides that when the evidence in causes pending is concluded the parties shall submit to the judge the charges they may desire to be given to the jury. If the judge hears argument thereon the jury shall first retire. The charges shall be read in the hearing of counsel who may except thereto etc; the judge shall submit charges and instructions to the jury, after which the argument of counsel to the jury may be heard; the court shall prescribe the order of argument of counsel when there are several parties having separate claims; the bill adds to Article 1368, relative to the granting of new trials the following: "The court shall grant a new trial when the verdict is contrary to the weight of evidence or without evidence to support it," and adds to Article 1370, which provides that not more than two new trials shall be granted to either party in the same cause, the words, "or when the verdict is without evidence to support it."

Referred to Judicial Committee No. 1.

And,

A bill to be entitled, "An act to amend Article 1045, chapter 7, title 26 and Article 1047, chapter 8, title 26 of of the Revised Statutes regulating practice in the Supreme Court and Court of Appeals."

The bill provides that the transcript and other papers in such courts, when once properly filed, shall not be refiled, and that by reason of such courts taking cases under advisement, no additional costs shall be taxed, and amends Article 1047 that it will not be required of such courts to have their opinions recorded, but that they shall

furnish the clerk a correct and brief statement of the points decided by the judgment without giving reasons or authorities upon which the conclusions of the courts are based.

Referred to Judiciary Committee No. 1.

BY SENATOR ALLEN :

A bill to be entitled "An act to appoint a commission, which shall report to each regular Legislature the necessary changes, due to State economy, in the financial management of the institutions under the care of the State."

The bill provides that ninety days prior to the meeting of a regular session of the Legislature the Governor shall appoint a commission of three persons, whose duty it shall be to visit the State penitentiaries, asylums, institutes, university and all its branches, who shall fully inspect and investigate such institutions, and shall report to the Legislature the condition, etc., of the institutions.

Referred to Committee on Finance.

BY SENATOR MACMANUS:

A bill to be entitled "An act to reorganize the Twenty-eighth Judicial District of the State of Texas, and to provide the times for holding the District Court therein."

Referred to Committee on Judicial Districts.

BY SENATOR POPE:

A bill to be entitled "An act to punish persons who sell vinous and spiritous liquors, who pursue the occupation of dealing in malt liquors"

The bill makes it penal for any person engaged in selling malt liquors to sell vinous and spiritous in the sum of not less than \$100.00 nor more than \$250.00 and shall forfeit the right to pursue such occupation, and prescribes manner of procedure in obtaining forfeiture of licenses.

Referred to Judiciary Committee No. 2.

And a bill to be entitled "An act to validate deeds and other instruments in writing made by the husband under power of attorney from the wife."

Referred to Judiciary Committee No. 2.

And an act to prescribe the punishment of employees of railway corporations for wilful violation of the orders of their superior officers.

Referred to Judiciary Committee No. 2.

Senate bill No. 62.

"An act to prevent the unauthorized enclosure of land and to make the maintenance of existing unauthorized enclosures of such Penal," was taken up with Committee Substitute.

On motion of Senator Bell,

The substitute was adopted.

Senator Lane withdrew his amendment.

SENATOR DOUGLASS, OF JEFFERSON

Offered the following substitute for the pending amendment: "Nothing in this act shall be construed as applying to persons who have enclosed or may hereafter enclose lands belonging to another, when the lands of such other person shall be so situated as that in inclosing land adjoining and surrounding such other persons land, his land will necessarily be enclosed, provided, however, that before making or maintaining such enclosure the party desirous to fence shall offer to lease or purchase such others land at the reasonable market value thereof.

SENATOR HOUSTON

Opposed and Senator Douglass of Jefferson favored the substitute.

Lost.

SENATOR HOUSTON,

By consent:

Temporarily withdrew the amendment offered by Senator Gregg.

On motion of Senator Houston,

The bill was taken up section by section.

SENATOR DOUGLASS OF JEFFERSON

Moved to amend section 1 by striking out the word "willfully," in line 2, and inserting in lieu thereof the word "knowingly."

On motion of Senator Terrell,

The bill, with the amendment, was laid on the table, subject to call by the following vote:

YEAS—12.

Abercrombie,  
Allen,  
Burney,  
Camp,  
Davis,  
Glassecock,

Harrison,  
Jarvis,  
McDonald,  
MacManus,  
Terrell,  
Woods.

NAYS—10.

Bell,  
Burgess,  
Calhoun,

Claiborne,  
Douglass of J,  
Frank,

Houston,  
Pope,

Upshaw,  
Woodward.

ABSENT—1.

Lane.

Substitute Senate bill No. 59 was taken up as unfinished business, and the pending substitute of Senator Gregg for the amendment of Senator Bell was lost by the following vote:

YEAS—7.

Burges, Harrison,  
Burney, McDonald,  
Calhoun, Terrell.  
Davis,

NAYS—15.

Abercrombie, Houston,  
Allen, Jarvis,  
Bell, Lane,  
Camp, MacManus,  
Claiborne, Pope,  
Douglass of J. Woods,  
Frank, Woodward.  
Glasscock,

SENATOR UPSHAW.

Announced a pair with Senator Gregg, the former would have voted "nay" the latter "yea."

The amendment offered by Senator Bell was lost by the following vote:

YEAS—8.

Bell, Frank,  
Burges, Harrison,  
Burney, Terrell,  
Calhoun, Woods.

NAYS—14.

Abercrombie, Houston,  
Allen, Jarvis,  
Camp, Lane,  
Claiborne, McDonald,  
Davis, Macmanus,  
Douglass of J. Pope,  
Glasscock, Woodward.

SENATOR UPSHAW

Would have voted "nay," but was paired with Senator Gregg, who would have voted "yea."

The Senate refused to engross the bill by the following vote:

YEAS—6.

Burges, Davis,  
Burney, McDonald,  
Claiborne, Woods.

NAYS—15.

Abercrombie, Harrison,  
Allen, Jarvis,  
Bell, Lane,  
Calhoun, Macmanus,  
Camp, Pope,  
Douglass of J. Terrell,  
Frank, Woodward.  
Glasscock,

ABSENT—1.

Houston,

SENATOR UPSHAW

Would have voted "nay," but announced a pair with Senator Gregg, who would have voted "yea."

On motion of Senator Frank Senate bill No 77:

"An act to provide for the sale of such appropriated public lands situated in the organized counties of the State of Texas as contain not more than 640 acres," was taken up out of its regular order and read second time, with favorable committee report.

On motion of Senator Pope,

The bill was considered section by section.

SENATOR M'DONALD

Moved that the bill lie on table subject to call.

Lost.

Senators Burney and Frank spoke in favor of the passage of the bill.

SENATOR ALLEN

Offered the following:

Add to section 6, "Provided he shall be allowed to purchase the same again whenever he can give sufficient and satisfactory reasons why he did not pay the required \$2 per acre on first purchase."

SENATOR TERRELL

Opposed the amendment.

SENATOR CAMP

Offered the following substitute for the amendment:

Amend section 6 by striking out in line 4, all after the word "and," down to the word "such," in line 5.

Accepted.

Senators Harrison, Terrell and Bell opposed the amendment as substituted and it was

Lost.

## SENATOR HARRISON

Offered the following amendment to the bill:

Amend the bill by adding to it section 7, as follows:

Adopted.

Section 7. Nothing in this act shall be so construed as to operate as a repeal of the reservations and donations of the lands referred to in this act to the free school and public debt funds made by former laws, but such reservations and donations shall be preserved intact, and the proceeds arising from sale of same under the provisions of this act, shall go one-half to the permanent free school, and the other to the public debt fund.

Adopted.

## SENATOR WOODWARD

Offered the following amendment:

In line 6, section 4, insert between the words "of" and "two," the words "not less than."

And in line 2, section 6, insert the words "not less than" between the words "of" and "two," in said line.

Senators Terrell and Bell opposed the amendment and Senators Burges and Harrison favored it.

## SENATOR LANE

Offered the following as a substitute for the amendments:

Amend by striking out the word "two," in line 6, section 4, and inserting the word "four."

## SENATOR FRANK

Opposed the amendment and substitute and favored the bill.

## SENATOR BURGESS

Favored the amendments.

## SENATOR POPE

Opposed the amendment and substitute.

## SENATOR ALLEN

Moved to lay the bill with pending amendments on the table subject to call

Lost.

## SENATOR LANE

Withdrew his substitute.

## SENATOR CALHOUN

Spoke in favor of the amendment of

Senator Woodward and it was adopted by the following vote:

## YEAS—16.

Abercrombie,	Glasscock,
Allen,	Harrison,
Burges,	Jarvis,
Burney,	McDonald,
Calhoun,	MacManus,
Camp,	Upshaw,
Claiborne,	Woods,
Davis,	Woodward,

## NAYS—7.

Bell,	Lane,
Douglass of J,	Pope,
Frank,	Terrell,
Houston,	

On motion of Senator Burges,

The further consideration of the bill was postponed, and it was made the special order for Tuesday after morning call.

On motion of Senator McDonald,

Senator Douglass of Jefferson was excused until Friday of next week.

On motion of Senator Upshaw,

Substitute Senate bill No. 22 (the railway commission bill) was taken up and made the special order for Monday after morning call.

On motion of Senator Glasscock,

Senate bill No. 182 (the geological survey bill) was taken up and made special order for the 19th (to-day week) inst.

On motion of Senator Terrell,

The vote by which the resolution offered yesterday by Senator Burney as follows:

"Resolved, That the rules be so amended as to require all committee reports, simple and concurrent resolutions, amendments, substitutes and all other matter that is intended or required to be printed in the Journal, to be written on but one side of the paper,

Was lost,

Was reconsidered.

Senators Burney and Terrell spoke in favor of the resolution.

## SENATOR TERRELL

Offered the following amendment to the resolution:

Amend by inserting the word "bills" between the words "resolutions" and "amendments," and strike out the word "other."

## SENATOR BURNEY,

Accepted the amendment and the resolution was adopted.

## SENATOR TERRELL

Offered the following resolution, which under the rules, lies over one day.

Resolved, by the Senate, the House of Representatives concurring, That rule 6, of the joint rules of the two Houses, be so amended as to hereafter read as follows: "All messages relating to the passage, substitution or amendment of any bill, resolution or other matter in passage between the two Houses, shall be sent by such person as a sense of propriety in each house may determine to be proper, and shall be in writing on but one side of separate sheet or sheets of paper, and shall be properly addressed to the presiding officer of the House to which the message be sent, and shall be signed by the person delivering the same in his official capacity.

A message was received from the House, announcing the passage of the following by the House.

Substitute for House joint resolutions Nos. 5 and 13, and House bill No. 26,

Being a "joint resolution to amend section 2, of Article 6, of the Constitution of the State of Texas."

Referred to Committee on Constitutional Amendments.

House bill No. 280.

"An act to amend sections 4 and 12, of an act entitled 'an act amendatory of and supplementary to the several acts incorporating the city of Dallas, taking effect April 3, 1885,' and to add thereto another section, to be known as section 15a, and also to amend sections 25, 63, 84, 91, 94, 113, 126, 127, 133 and 179, of an act to incorporate the city of Dallas, approved August 9, 1876, and all amendments to said sections by the amendatory acts of July 9, 1879, April 3, 1881 and March 31, 1883, and to repeal all laws and parts of laws in conflict herewith."

Referred to Judiciary Committee No. 2.

House bill No. 122.

"An act to amend section 13 of 'an act entitled, an act to amend section 13 of 'an act to redistrict the State into judicial districts and fix the times for holding courts therein, and to provide for the election of judges and district attorneys in said districts at the next general election to be held on the first Tuesday, after the first Monday in November, 1884, Approved March 31, 1885.'"

Referred to Committee on Judicial Districts.

House bill No. 88.

"An act to establish the western boundary of Edwards county."

Referred to Committee on counties and county boundaries.

House bill No. 115.

"An act to restore the Civil Jurisdiction of the County Court of Bosque County and to repeal all laws in conflict therewith"

Referred to Judiciary Committee No. 1.

House bill No. 172.

"An act to authorize and require the Commissioner of the General Land Office to issue a patent to the heirs of Wilhelm Kuhlman for 320 acres of land, located in Gillespie County on December 1, 1879 by virtue of scrip No. 5."

Referred to Committee on Private Land Claims.

Substitute House bill No. 57.

"An act to amend Articles 9 and 10, of title 3, of the Revised Civil Statutes of Texas, defining the rights of aliens in this State."

Referred to Judiciary Committee No. 1.

House bill No. 73.

"An act to amend Article 165, chapter 4, title 6, of the Penal Code of the State of Texas."

Referred to Judiciary Committee No. 2.

House bill No. 60.

"An act to amend Article 428 of section 1 of an act to amend Articles 423, 424, 425, 426, 427, 428, 429 and 430a and to create Article 426 1-2 and to repeal Article 430 of chapter 5, title 13 of the Penal Code of the Revised Statutes for the protection of fish and game, approved March 15, A. D., 1881."

Referred to Judiciary Committee No. 2.

On motion of Senator Pope:

The Senate adjourned till 11 o'clock Monday morning.

## THIRTIETH DAY.

SENATE CHAMBER. }  
AUSTIN, February 14, 1887. }

The Senate met pursuant to adjournment.

Lieutenant Governor Wheeler in the chair.

Roll called.

Quorum present.

Prayer by the Chaplain Dr. Smoot.

On motion of Senator Houston,

The reading of the Journal of yesterday was dispensed with.